

Arkansas Part B 2008 Verification Visit Letter
Enclosure

I. General Supervision

Critical Element 1: Identification of Noncompliance

Does the State have a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components?

Verification Visit Details and Analysis

The Arkansas Department of Education (hereafter referred to as ADE or State) uses its monitoring systems and dispute resolution systems to identify noncompliance. Since OSEP's last verification visit (2003), the State has modified its monitoring system several times.

Beginning in 2004, ADE moved from a three year cyclical monitoring system, consisting of a review of 13 compliance areas, to one consisting of three components: 1) Continuous Improvement/Focused Monitoring; 2) Continuous Improvement Monitoring; and 3) Random Monitoring. Both Continuous Improvement/Focused Monitoring and Continuous Improvement Monitoring (also known as targeted monitoring) began with a review of the focused monitoring district profiles. The profiles included two years of data on six monitoring priority areas: suspension/expulsion; graduation rate; dropout rate; least restrictive environment; assessment participation; and disproportionality. With the exception of disproportionality, the priority areas examined results, rather than the identification of noncompliance. Based on the review of State data, the ADE established trigger values for each priority area designed to identify those districts in most need of intensive general supervisory activities. Local education agencies (LEAs) with two or more triggers in priority areas were selected for monitoring. Districts were rank ordered on the basis of their triggers. LEAs designated at Level 3 or 4 (numerous triggers) were selected for Continuous Improvement/Focused Monitoring, while those ranked at lower levels (few triggers) were selected for Continuous Improvement Monitoring or Random Monitoring.

The intent and content of the monitoring of a given LEA differed according to which type of monitoring the district received:

- 1) Continuous Improvement/Focused Monitoring included self-assessment, data reviews, pre-site and on-site document reviews, on-site review of each of the priority areas, staff interviews and focus groups conducted with teachers, parents and students.
- 2) Continuous Improvement Monitoring consisted of on-site monitoring based upon the focused monitoring profile triggers, results of previous monitoring visits, dispute resolution findings, and issues of fiscal distress.

3) Random Monitoring was conducted at the discretion of the State on an as-needed basis, as another option to the Continuous Improvement/Focused Monitoring and Continuous Improvement Monitoring. While Random Monitoring was available to ADE, it was not used on a regular basis. When conducting Random Monitoring activities, the State utilized the monitoring check list consisting of the 13 compliance areas utilized in the older three-year cyclical monitoring system.

This monitoring system, comprised of three types of monitoring, was in place through the reporting periods for the FFY 2006 and FFY 2007 Annual Performance Reports (APR). The State's monitoring activities implemented through FFY 2007 addressed only a portion of the IDEA requirements and focused primarily on examining the educational results and outcomes for children with disabilities as required under 34 CFR 300.600(b)(1). However, the State did not appear to have had a system in place to ensure that public agencies were meeting the program requirements under Part B of IDEA, as stipulated under 34 CFR §300.600(b)(2).

Beginning with the 2008-2009 school year, ADE returned to a three-year cyclical monitoring system, supplemented by focused and random monitoring. Under this system one third of the State's 244 LEAs will be monitored each year of the cycle. Monitoring consists of the State review of 11 compliance issue areas and a self-assessment. The 11 areas are: child find; due process; protection in evaluation procedures; procedures for evaluating specific learning disabilities; individualized education programs, free appropriate public education; least restrictive environment; confidentiality of information; system of personnel development; children with disabilities in private schools; use of funds. Additionally, the State examines whether the LEA met the State targets for results indicators of the State Performance Plan (SPP).

The State's monitoring practice, regardless of the form of monitoring, is governed by a philosophy known as "pattern and practice." Pattern and practice is "not determined by a percentage of items that are determined to be present, or not present." Instead, "pattern and practice" is determined by looking at the patterns that are established by the presence or absence of individual items and/or practices that exist within a district."¹ As it was implemented until FFY 2008, the State issued a finding to an LEA that required specific corrective action when the State found a pattern and practice of noncompliance with an IDEA requirement. Individual instances of noncompliance that were not linked to "pattern and practice" were noted as areas of concern, but did not rise to the level of a finding and no corrective action was required.

In addition to findings to be corrected and documented through a Compliance Action Plan (CAP), some monitoring reports identified instances of noncompliance that were determined to be "non-pattern and practice issues," but were not included in the CAP. Other monitoring reports noted that "areas of concern" were identified during the monitoring visit, which would be addressed in a separate letter. While the State brought these matters to the attention of the LEA, ADE did not require the LEA to correct "non-pattern and practice issues," or "areas of concern." Since these

¹ "Compliance Monitoring of Local Educational Agencies' Programs for Children with Disabilities: Procedural Manual," Arkansas Department of Education, July 31, 2001

issues were not included in CAPs, the State had no mechanism to determine whether or not these issues were corrected.²

Currently, the ADE is re-drafting its monitoring protocols to correspond to the new State rules effective July 2008 and the guidance recently issued by OSEP to the States.³ In particular, the State is clarifying that a finding must be issued upon the discovery of any noncompliance, regardless of the level or frequency. Towards this end, ADE intends to maintain the concept of "pattern and practice," but use it to determine the appropriate corrective action, rather than the making a finding of noncompliance. OSEP stands ready to provide additional guidance on this issue.

ADE employs nine area supervisors responsible for conducting the monitoring visits and issuing findings. The State issues monitoring findings and CAPs through a data base called MyADMIN. The letters are generated through templates and are customized to reflect the specific findings made by the monitoring team. The letters are accompanied by CAPs also generated through the MyADMIN, with specific actions chosen based upon the findings made. This system allows the State to ensure the uniformity and standardization of monitoring findings and CAPs.

In addition to findings made through monitoring visits, ADE, as reflected in its APR, makes findings through its dispute resolution system. However, the State has access to information from other components of its general supervisory system that could be used to identify noncompliance. For example, the statewide database, Arkansas Public School Computer Network (APSCN), provides data on all LEAs' performance on the State Performance Plan (SPP) compliance indicators, as well as the section 618 data. However, ADE does not utilize its database to make findings based on low-levels of performance on compliance indicators.

According to data provided by ADE, in the 2007-08 school year, approximately 27% of the total 3-5 year old preschool students served under IDEA Part B were enrolled in Developmental Day Treatment Clinic Services (DDTCS) Centers. DDTCS Centers are licensed by the Developmental Disability Services (DDS) Division of the Arkansas Department of Human Services to provide services to eligible children 0-5. DDTCS Centers provide Part C services to infants and toddlers from birth through aged two, and preschool services to children ages three to five. Under an interagency agreement between DDS and ADE, DDS is responsible for monitoring individual DDTCS Centers, while ADE is responsible for monitoring DDS and providing training and technical assistance to ensure that DDS monitors for IDEA requirements. To date, ADE has not

² OSEP reviewed a total of five complete monitoring files, which included, at a minimum, the notification of a monitoring visit, the letter of findings, the CAP, interim correspondence between the State and the district, evidence submitted by the district of correction and a letter closing out the findings, from ADE. OSEP also reviewed additional documentation or correspondence from the LEA. OSEP also reviewed additional documentation provided by the State on other LEAs that included the correspondence from ADE (notification of visit, letter of findings, the CAP and the letter closing out the findings) but not the documentation or correspondence from the LEA. The initial letter detailing monitoring findings and the letter closing out the findings is provided to the special education supervisor.

³ "Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan (SPP)/Annual Performance Report (APR), September 2, 2008; and "Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act", OSEP Memo 09-02, October 17, 2008.

provided OSEP with documentation of monitoring or technical assistance provided to DDS to ensure that they are complying with the IDEA Part B requirements.

OSEP Conclusions

In order to effectively monitor implementation of Part B of the IDEA, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must monitor the improvement of educational results and functional outcomes for all children with disabilities, and must ensure compliance with program requirements. The State must also identify noncompliance by issuing findings of noncompliance when the State obtains reliable data reflecting noncompliance with Part B requirements and monitor all programs providing special education and related services. Based on the review of documents, analysis of data, and interviews with State personnel, while the State did monitor the improvement of educational results and functional outcomes for children with disabilities (34 CFR §300.600(b)(1)), OSEP believes the State did not, during the reporting periods for the FFY 2006 and 2007 APRs, have a general supervision system that monitored to ensure compliance with program requirements (34 CFR §300.600(b)(2)). In particular, the monitoring system in place during this period did not ensure that public agencies were meeting the program requirements under Part B of IDEA. In addition, because the State did not make written findings notifying the districts of noncompliance for issues that did not rise to the level of a pattern or practice, as defined by the State, ADE did not have a system in place to identify noncompliance in a timely manner. The State also did not utilize all available information to make findings of noncompliance, since it did not use its database to identify noncompliance based on low levels of performance on compliance indicators. Finally, because the State could not provide documentation that it was monitoring programs of the DDS providing preschool services to children with disabilities, it has not demonstrated that each education program for children with disabilities administered within the State, including each program administered by any other State or local agency is under the general supervision of the SEA and meets the educational standards of the SEA (34 CFR §300.149(a)(2)).

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must provide:

- 1) a written assurance that it has established procedures to carry out its monitoring responsibilities set forth under 34 CFR §300.600(a) and (b);
- 2) a plan ensuring that it uses all of its components, including data the State receives through its monitoring system, statewide database, State complaints, and due process hearings, to timely identify and notify LEAs of noncompliance and the responsibility to ensure that all such noncompliance is corrected as soon as possible and in no case longer than one year after the date of notification; and
- 3) written documentation that it is fulfilling its obligations to monitor State agencies providing Part B services, including DDS.

Critical Element 2: Correction of Noncompliance

Does the State have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner?

Verification Visit Details and Analysis

Using MyADMIN, the State develops Compliance Action Plans (CAPs) for LEAs that have been monitored that are sent with the letter detailing the monitoring findings. The CAPs include specific corrective actions that must be taken for each finding and the evidence that must be submitted to document correction. For each finding the CAP sets a date by which time evidence of correction must be submitted. In each case, the timeline is within one year of correction. Area Supervisors track the progress of LEAs in making correction through MyADMIN and verify correction within the one year timeline. Follow up on-site visits are conducted when the State determines they are necessary.

ADE staff follow up to ensure corrective actions required in due process hearing decisions and State Complaint decisions are implemented by the LEA, as reported by the State and confirmed in OSEP's review of dispute resolution files.

The State reports that it has at its disposal the full range of enforcement actions in cases where correction is not completed within one year of identification, including the withholding of funds. LEAs are notified of this potential action in the original letter of findings. A statement regarding potential enforcement action for the failure to comply with corrective actions is also included in State Complaint and due process hearing documents.

Under the monitoring system utilized through the 2007-2008 school year, as noted above, individual items of noncompliance that did not meet the State's standard of pattern and practice, were not cited as noncompliance in monitoring reports, but rather as items of concern or non pattern and practice issues. Although these items were brought to the attention of the LEAs, ADE did not have a system to verify correction of these issues. OSEP's long-standing policy has been, whether or not an individual finding is made, that States have been under the obligation to ensure timely correction of noncompliance. ADE is aware, through OSEP guidance⁴, that it is required to make a finding on every instance of noncompliance and to ensure timely correction.

OSEP Conclusions

In order to effectively monitor implementation of Part B of the IDEA, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must ensure that identified noncompliance is corrected in a timely manner. Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes, with the exception of correcting noncompliance that does not rise to the State's level of 'pattern or practice,' that the State has demonstrated that it has a general supervision system that is ensuring correction of identified noncompliance in a timely manner. Specifically, OSEP finds that while

⁴ "Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan (SPP)/Annual Performance Report (APR). September 2, 2008; and "Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act", OSEP Memo 09-02, October 17, 2008.

the State has procedures in place to ensure the timely resolution of noncompliance in accordance with IDEA requirements, it did not have a mechanism to ensure correction of individual items of noncompliance that were noted by the State, but did not rise to the standard of pattern and practice.

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must provide a written assurance that it has developed and is implementing procedures to ensure correction of all noncompliance that has been identified by all components of its general supervisory system, regardless of whether the noncompliance is systemic or an individual instance.

Critical Element 3: Dispute Resolution

Does the State have procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA?

Verification Visit Details and Analysis

State Complaint System

ADE has tracking systems to monitor the timeliness of complaint decisions and of correction of noncompliance identified in complaint decisions. The State's 2006 APR and Table 7 reported that all complaints were investigated and resolved within the required 60 day timeline. A review of the State complaint log and 11 complaint files verified the accuracy of this data. In addition, in all the reviewed files, the State investigated and reached a conclusion on each allegation of the complaint.

The State has developed a model State complaint form, which will be posted on its website and is being disseminated throughout the State through LEAs, professional organizations, parent groups and advocacy organizations.

Due Process Hearings

ADE has tracking systems to monitor the timeliness of resolution sessions and the issuing of written due process hearing decisions. The State's 2006 APR reported that all resolution sessions were held within 15 days of the filing of a due process hearing, and that due process decisions were issued within 45 days of the end of the resolution process. A review of the State's due process log and 10 due process hearing files verified the accuracy of this data. The due process hearing files that were reviewed demonstrated that required timelines were clearly laid out for all parties concerned and that hearing decisions were issued within required timelines.

The State has a model due process hearing form accessible on its website and widely disseminated throughout the State. The use of the model form is currently required for both LEAs and parents. This policy is inconsistent with 34 CFR §300.509(a) which specifies that the SEA or LEA may not require the use of the model forms.

ADE provides quarterly summaries of due process hearing decisions to the State Advisory Board, but does not transmit the findings and decisions to the Board, as required under 34 CFR §300.513(d)(1). The due process hearing decisions are available to the public when requested through the mechanism set up under the State's Freedom of Information Act (FOIA). This policy does not meet the requirement under 34 CFR §300.513(d)(2) to make the findings and decisions available to the public.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP determined the State has not demonstrated that it has procedures and practices that are reasonably designed to implement all dispute resolution requirements of IDEA. Specifically, OSEP finds that while the State has procedures in place to ensure the timely resolution of State complaints and due process hearings in accordance with IDEA requirements, the State has failed to demonstrate compliance with requirements regarding the voluntary use of the State's model due process hearing forms (34 CFR §300.509(a)), the transmittal of findings and decisions to the State advisory panel (34 CFR 300.513(d)(1)), and making findings and decisions available to the public (34 CFR §300.513(d)(2)).

Required Actions/Next Steps

Within 60 days of receipt of this letter, the State must provide:

- 1) documentation that neither parents nor LEAs are required to use the model form to file a due process complaint; and
- 2) a written assurance that the State has established procedures to transmit the findings and decisions referred to in 34 CFR §300.512(a)(5) to the State advisory panel and to make the findings and decisions available to the public, as set forth in 34 CFR §300.513(d).

Critical Element 4: Improving Educational Results

Does the State have procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities?

Verification Visit Details and Analysis

ADE leads or participates in a number of interrelated initiatives designed to decrease dropout rates and increase graduation rates for students with disabilities, as well as to assist them in achieving their desired postsecondary outcomes. LEAs requiring additional technical assistance in meeting the needs of youth with disabilities are assisted through the Centralized Intake and Referral/Consultant Unified Intervention Team (CIRCUIT). Requests for specialized assistance for students with disabilities aged 14-21 are forwarded to the Post-school Outcome Intervention for Special Education (P.O.I.S.E.) team. P.O.I.S.E. assists districts in the development of IEPs for youth. By reviewing each student's IEP, the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of their child, the results of the initial evaluation or most recent evaluation of the student, the student's academic development, and the functional needs of the student. P.O.I.S.E. has also developed the Changing Outcomes through Retention Elements (C.O.R.E.) project. The C.O.R.E. project provides interventions for cohorts of ninth graders who are failing academically in the first semester of the school year, beginning with

the 2007-08 school year. Districts were introduced to the C.O.R.E. project during the special education data summit held June 2007.

ADE received a five-year State Improvement Grant (SIG) in 2003, and is currently continuing the activities in the grant through a one-year no-cost extension. The first goal of the SIG was to improve literacy through research-based strategies. Towards this end, ADE developed a literacy matrix, which provides research-based lessons directly linked to the Arkansas literacy frameworks for the five nationally recognized areas of literacy (phonemic awareness, phonics, vocabulary, fluency, and comprehension) and in the additional areas of oral language and writing. In addition, ADE has focused on adolescent literacy. Ten ADE and local district staff are currently being certified as professional trainers through the Strategic Instruction Model (SIM) through the University of Kansas, Center for Research on Learning (KU-CRL). ADE is also collaborating with the State's general education program staff in the Adolescent Literacy Project, which funds interventions for adolescents in specific areas.

The second SIG goal focused on implementing positive behavioral support systems (PBSS) in schools and districts across Arkansas, as well as piloting school-based mental health partnerships between select school and community mental health center grantees over a four year period. PBSS was developed by Project ACHIEVE, a nationally-known evidence-based school improvement program. Guided by Project ACHIEVE, ADE has developed a number of products to facilitate the implementation and scaling up of PBSS. These include: The ADDRESS (Automated Discipline Data Review and Evaluation System), which is an application that allows schools to track and analyze discipline referrals; and The Positive Behavioral Support and Response-to Intervention DVD Series: "Building Strong Schools to Strengthen Student Outcomes." ADE reports the State is committed to continuing the initiatives started under the SIG beyond the life of the grant, subject to budget considerations.

To ensure access to the general curriculum and that students with disabilities are being educated in the least restrictive environment (LRE), the State is engaged in a number of initiatives. ADE conducted a professional development program on Co-Teaching, in which a total of 40 schools from 27 school districts participated. The literacy and PBSS initiatives developed under the SIG are also being utilized to increase the students with disabilities' access to the general curriculum and education in regular classrooms. A primary goal of the Department-wide program, Closing the Achievement Gap (CTAG), is to identify and close any existing gaps within the ADE relating to the provision of support to school districts, thereby ensuring districts are receiving the services and supports necessary (including positive behavioral supports) for all students to have access to the general curriculum. Finally, ensuring students with disabilities are educated in the LRE continues to be one of the priority focused monitoring areas for the State.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP determined that the State has procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities.

Required Actions/Next Steps

No further action is required.

Critical Element 5: Implementation of Grant Assurances

Does the State have procedures and practices that are reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, significant disproportionality, private schools, CEIS, NIMAS and assessment)?

Verification Visit Details and Analysis

ADE uses its grant application process and monitoring to ensure the implementation of grant assurances.

Public Reporting and Determinations

As a part of its monitoring and enforcement responsibilities under section 616 of the IDEA and 34 CFR §300.600(a), each State must annually report to the public on the performance of each LEA against the State's SPP/APR targets and must make an annual determination for each LEA. ADE meets this reporting requirement by posting a PDF document on its website, in which the State reports each LEA's performance against targets in the State's SPP. Prior to making the reports available to the public, the State provides each LEA with a copy of its report and affords the LEA the opportunity to request corrections.

In consultation with its stakeholders, ADE developed clear criteria for making local determinations in conformance with the requirements under section 616 of the IDEA and 34 CFR §§300.603 and 300.604. Local determinations are made based on the State's rubric and the LEA's data for required compliance indicators. Letters identifying the LEAs' determinations are sent out no later than the end of the school year and include the criteria under which determinations were made and any required enforcement actions.

Significant Disproportionality and CEIS

ADE collects data, pursuant to 34 CFR §300.646, on significant disproportionality based on race and ethnicity with respect to: 1) the identification of children as children with disabilities; 2) the identification of children as children with a specific disability; 3) the placement of children with disabilities in particular educational settings; and 4) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. The State provided documentation showing that it had identified 23 LEAs using data collected in FFY 2007 as having significant disproportionality. All of the districts were identified under category one, the identification of children as children with disabilities. The State uses one methodology to identify significant disproportionality for category one (discrepancy between representation of race or ethnic group in LEA as whole and in special education, as compared to State average), and a second methodology (a risk ratio of 10) for the other three categories (identification in specific disabilities, placement, and discipline). The State explained that it uses three year trend data to make the identification under the latter three categories. The State reported it recently collected the full three years of data, and for this reason has not identified any districts under these categories to date. The State further explained that since it now has the three years of data required it will use the data to make determinations of significant disproportionality, as appropriate, for all districts in all four categories.

OSEP has previously made clear that States may use multiple years of data to make a determination of significant disproportionality. However, as stated in the April 24, 2007

memorandum on disproportionality⁵, States must make this determination on an annual basis. While it is appropriate to use multiple years of data when available, a State may not delay making a determination of significant disproportionality in order to collect multiple years of data.

ADE has required those LEAs identified with significant disproportionality to: 1) reserve 15% of their IDEA Part B funds for comprehensive early intervention services (CEIS); 2) complete self-assessments to identify areas of concern; and 3) review policies, procedures, and practices, and revise them as appropriate). LEAs receive written notification of their identification and of the amount of money they are required to reserve for CEIS. LEAs are also required to complete CAPs and to include the information in their school improvement plans submitted to the Department-wide on-line system, the Arkansas Comprehensive School Improvement Plan (ASCIP).

ADE is able to track the budgeting and expenditure of CEIS funds through the use of a separate accounting code and access to the fiscal component of APSCN. The State also tracks the number of students receiving services under CEIS and the number of those students who subsequently receive special education services through the special education module of APSCN.

ADE has recently conducted an extensive full-day training session on significant disproportionality and CEIS. Approximately 100 LEAs participated in the training. The training materials will be made available on-line. OSEP noted that the written presentation materials suggest erroneously that a review of policies, procedures and practices must take place before the identification of an LEA for significant disproportionality is made. The State reported that they have identified LEAs solely on the basis the data, as required. A review of one of the letters sent to an LEA determined to have significant disproportionality confirmed this to be the case. The State has been advised to make adjustments to the relevant portions of the training materials and ADE has stated that it will revise the materials to accurately reflect the requirements.

Private Schools:

The annual application includes assurances on the provision of equitable services to parentally placed private school children, and on the conduct of meaningful consultation in accordance with 34 CFR §300.134. Cyclical and random monitoring procedures also include review of LEA compliance with these requirements. ADE is currently implementing a new accounting code, which will allow it to more effectively track LEAs' expenditures to ensure the proportionate share of IDEA funds are spent for the provision of equitable services to parentally placed private school students.

NIMAS

The State adopted the National Instructional Materials Accessibility Standards (NIMAS) and utilizes the Educational Services for Visually Impaired (ESVI) as consultant services to the LEAs to ensure appropriate procedures are used and materials ordered. ADE uses the American Printing House for the Blind (APH) as its vendor. ESVI provides regular reports to ADE which includes the number of blind and print impaired students requiring instructional materials in accessible format, the services they receive, the materials needed, the materials ordered, and the materials received. LEAs are required to provide assurances in their annual application documenting compliance with NIMAS requirements. The cyclical and random monitoring checklist also examines LEA compliance with NIMAS requirements. The combination of the ESVI reports, the

⁵ "Disproportionality of Racial and Ethnic Groups in Special Education", OSEP Memo 07-09, April 24, 2007

grant assurances and the monitoring checklist enables the State to ensure that blind and print impaired students receive instructional materials in a timely manner.

Assessments

To ensure LEA compliance with the Part B IDEA requirements for statewide assessments, the ADE Special Education Unit (SEU) works with the State's Curriculum, Assessment and Research Unit to conduct annual on-site assessment monitoring during the testing period and on-going professional development.

ADE assessments are conducted through the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP). Students with significant cognitive disabilities, who, as determined by the IEP team, cannot be appropriately assessed through the regular assessment, may be tested through the Arkansas Alternate Portfolio Assessment System.

Currently, the State reports to the public on student participation and performance in assessments through the National Office for Research on Measurement and Evaluation Systems (NORMES) website. However, NORMES does not provide for separate reporting on the number of students with disabilities taking the regular assessment with and without accommodations, or the number of students with disabilities taking the alternate assessment against alternate academic achievement standards, as set forth in 34 CFR §300.160(f). State level data are currently available through section 618 data reported on Table 6 and attached to the APR. However, district and school level data are not publicly available as required under the regulations. The State assured OSEP during the verification visit that it had collected this data and would report accurately on all required information. Subsequently, the State has posted the required data for the 2006-07 assessments. OSEP is appreciative of the dispatch with which the State attended to this matter. However, this does not meet the requirement to report to the public with the "same frequency... as it reports on the assessment of nondisabled children," as required under 34 CFR §300.160(f).

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has, with the exception of the assessment reporting required under 34 CFR §300.160(f), procedures and practices reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, significant disproportionality, private schools, CEIS, NIMAS, and assessment).

Required Actions/Next Steps

The State must demonstrate that it is reporting to the public on the participation of students with disabilities in assessments with the same frequency and in the same detail on as it reports on the assessment of nondisabled students, including:

- 1) the number of children with disabilities participating in regular assessments, and the number of those who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments;
- 2) the number of children with disabilities, if any, participating in alternate assessments based on grade-level academic achievement standards;
- 3) the number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards; and

4) the number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.

To demonstrate this, the State must submit a statement to OSEP the next time annual assessment data are reported, that it has also reported for students with disabilities, as required above. The statement should include a link to the State's Web site where the data have been posted.

II. Data

Critical Element 1: Collecting and Reporting Valid and Reliable Data

Does the State have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner?

Verification Visit Details and Analysis

ADE collects most of its data through the department-wide database, the Arkansas Public School Computer Network (APSCN). APSCN data are collected in seven cycles throughout the year. APSCN is a software-based system. Each LEA has its own database, with all but two LEAs using the same software. The LEA's database information is fed into APSCN. SEU maintains a data warehouse, MySPED. The special education data that come in through APSCN are downloaded into MySPED, which allows SEU to store, use and analyze the data. MySPED is a web-based system, and additional data are submitted to SEU directly through MySPED.

Each data collection has business rules based on State and Federal requirements, which are designed to ensure validity and reliability of the data. LEAs have access to MySPED and are given periodic opportunities to examine previously submitted data and to submit corrections to those data the LEA determines were inaccurate. ADE posts data dictionaries, submission templates, guidance and training materials on its website, which is accessible to all users. The State conducts statewide and regional in-person training and produces webinars that are recorded and continue to be accessible as training materials posted on the State's website.

ADE funds the IDEA Data and Research Office, housed at the University of Arkansas at Little Rock, to meet the data and reporting requirements of IDEA and to carry out IDEA-related research. In addition to overseeing the collection, reporting and analysis of all IDEA-related data, this office maintains programming staff at APSCN to oversee the special education modules of the State's database. Staff members from the IDEA Data and Research Office are available to local district staff to provide technical guidance.

As a part of the verification process, OSEP specifically inquired into the State's guidance and data collection methodology for SPP/APR Indicators 4A, 8, 9, 10, 11, 12, 13, and 14. The State provided information demonstrating that the data it collected for these indicators were consistent with the required measurements.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner. OSEP cannot, however, without also conducting a review of data collection and reporting practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that is consistent with Part B.

Required Actions/Next Steps

No further action is required.

Critical Element 2: Data Reflect Actual Practice and Performance

Does the State have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance?

Verification Visit Details and Analysis

The State ensures that the data it collects and reports reflect actual practice by using a system of national, regional and local trainings of all personnel involved in data collection and reporting. The business rules embedded in APSCN and MySPED help prevent data errors and discrepancies. By providing LEAs access to their data and the ability to provide corrections before finalization, ADE helps ensure both accuracy and the reflection of actual practice and performance. In addition, over the past five years, the State has moved from collecting largely aggregated data to the collection of student-level data. This ensures that the data reflect actual performance. ADE uses self-assessments and monitoring to cross-walk and verify the data.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance. OSEP cannot, however, without conducting a review of data collection and reporting policies at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that reflects actual practice and performance.

Required Actions/Next Steps

No further action is required

Critical Element 3: Integrating Data Across Systems to Improve Compliance and Results

Does the State compile and integrate data across systems and use the data to inform and focus its improvement activities?

Verification Visit Details and Analysis

ADE utilizes all its data tools (ASPCN, MySPED, MyADMIN, NORMES) to determine areas that require improvement, training or additional attention. Based upon the nature of the data the State tailors the actions it takes to the LEA, the region or statewide. The State reports it develops

trainings based on needs identified through data analysis. A close examination of the data for a specific LEA may determine the focus of a monitoring visit, or trigger the need for one. The State reports close collaboration with other ADE divisions (finance, assessment, general education, et al) to ensure a comprehensive perspective on improvement requiring department-wide cooperation. In addition, LEAs are required to enter CAPS into the department-wide school improvement tool, ACSIP.

The State also uses its analysis of data trends to define statewide needs and develop initiatives that address those needs. ADE cited the example of deaf and hearing impaired students with emotional disabilities. The data indicated an increase in the number of these students being placed in out-of-State facilities, suggesting that their needs were not being met within Arkansas. As a result ADE has developed a pilot program in collaboration with the Division of Behavioral Health and the Arkansas School for the Deaf for students who are dually diagnosed as deaf and with emotional disabilities. The program is housed at the Arkansas School for the Deaf and is slated to accommodate up to 20 students.

III. Fiscal

Critical Element 1: Timely Obligation and Liquidation of Funds

Does the State have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds?

Verification Visit Details and Analysis

The State compiles a spreadsheet tracking available funds and spending. The spreadsheet is compiled in conjunction with and is shared with the Finance Department. This allows ADE to ensure that all payments are appropriate and that funds are being obligated and expended in a timely manner. The State provides trainings to LEAs on the obligation and expenditure of IDEA funds. One ADE staff member is assigned to monitor LEA obligations and expenditures. MySPED provides each LEA with access to the LEA's account information. If ADE identifies a fiscal issue for an LEA, this information is also posted into MySPED, allowing LEAs quick access to information about required actions. SEU is also gaining access to the fiscal module of ASCIP, allowing access to real-time information about local expenditures. OSEP confirmed through the U.S. Department of Education's Grants Administration and Payment System (GAPS) that the State expended all of its FFY 2004, FFY 2005 and FFY 2006 Part B funds in a timely manner. ADE informed OSEP that no LEAs have had to return funds due to the failure to obligate or expend IDEA Part B funds in a timely manner.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds. OSEP cannot, however, without collecting data at the State and local levels, determine whether all public agencies in the State implement fiscal procedures that ensure the timely obligation and liquidation of IDEA funds.

Required Actions/Next Steps

No further action is required.

Critical Element 2: Appropriate Distribution of IDEA Funds

Does the State have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State?

Verification Visit Details and Analysis

All systems that receive funds, including charter and State-operated schools, must give assurances regarding MOE, supplement not supplant, and other appropriate accounting procedures. The calculations for the proportionate share for students parentally-placed in private schools are made by the State for each LEA with private schools in its district. The State provides information to LEAs each year regarding the distribution process including a description of how Part B funds must be used. State auditors also review State and LEA financial systems to ensure the appropriate expenditure of Part B funds. The State has not established an LEA Risk Pool.

Under section 611, ADE currently funds three State agencies that administer educational programs for students with disabilities as LEAs: The Department of Corrections, the Department of Youth Services and the Department of Developmental Disabilities. Based on the allocation information provided by the State, OSEP learned that the funding provided to these entities included the base and population allocations, but not the poverty allocation, as required by the formula set forth in 34 CFR §300.705(b).

In addition, ADE provided subgrants under section 611 to Easter Seals and Head Start programs. In order to receive subgrants under IDEA Part B, as stipulated under 34 CFR §300.705(a), an entity must be an LEA or Educational Service Agency, as defined in 34 CFR §§300.28. Neither Easter Seals nor the Head Start programs qualify under these definitions, and are therefore not eligible to receive subgrants under IDEA Part B.

Following OSEP's verification visit, the State revised its proposed allocations of Part B section 611 subgrants for FFY 2008 and submitted the proposal for review. OSEP is satisfied that the changes address the noncompliance identified above for FFY 2008. The State has been advised to proceed with the distribution of FFY 2008 funds.

OSEP is currently working to resolve findings from the Single State Audits for FFYs 2006 and 2007.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP determined the State has not demonstrated that it has procedures and practices that are reasonably designed to ensure appropriate distribution of IDEA funds within the State. Specifically, OSEP finds that the State failed to demonstrate compliance with the requirements for the distribution of subgrants under 34 CFR §§300.705(a) and (b).

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must provide documentation that the State has:

- 1) revised its policies and procedures to ensure that the State makes Part B subgrants only to entities that do meet the definition of "LEA" in 34 CFR §300.28;
- 2) made FFY 2009 subgrants under section 611 only to entities that meet the definition of LEA under 34 CFR §300.28, has adjusted the base payment to each affected LEA in light of the base payment distribution reflected in 2.b, above, and has distributed FFY 2009 section 611 funds consistent with the formula in 34 CFR §300.705(b);
- 3) revised its policies and procedures to ensure that all entities receiving Part B subgrants, including State agencies that meet the definition of an LEA, receive allocations based on the formula stipulated in 34 CFR §300.705(b), including poverty allocations; and
- 4) recalculated the FFY 2004, 2005, 2006 and 2007 section 611 allocations for any State agency funded as an LEA that did not receive a poverty allocation for that year. In doing so, the State must ensure that each entity has received the full allocation to which it was entitled.

Corrective actions related to the Single State Audits FFYs 2006 and 2007, will be addressed under separate cover.

Critical Element 3: Appropriate Use of IDEA Funds

Does the State have procedures that are reasonably designed to ensure appropriate use of IDEA funds?

Verification Visit Details and Analysis

The SEU has been given the responsibility for managing the IDEA budget, but works closely with the Finance office to ensure appropriate use of IDEA funds. The two offices communicate regularly at the Director's level, through the special education finance administrator and budget analyst. SEU works closely with the Comptroller's office to ensure appropriate internal controls. SEU maintains a detailed spreadsheet for all expenditures, which is shared with the Finance office.

All funds within the State receive a separate funding code which the State uses to track both Part B and other funds. Each program and project has a specific accounting code in the accounting system.

The State ensures that LEAs use Part B funds to supplement and not supplant State, local, and other Federal funds through review of the required LEA application assurances, monitoring, and State audits. Similarly, the State ensures LEAs comply with the fiscal requirements of IDEA (i.e., LEA MOE calculations, CEIS spending, private school and charter school spending) by requiring assurances in the annual application and through its monitoring protocols. LEAs that want to reduce MOE must provide a written request, with reasons and documentation that demonstrate they fall under the exceptions outlined in 34 CFR §300.204, before it is approved.

Arkansas Part B 2008 Verification Visit Letter- Enclosure

Before LEAs are required to submit their Part B applications, the State informs LEAs identified with significant disproportionality under 34 CFR §300.646 of the dollar amount that is equal to 15% of their total Part B subgrant. ADE ensures the appropriate expenditure of the 15% required of LEAs identified with significant disproportionality by monitoring accounts of LEAs through MySPED and APSCN, as well as, ongoing training. CEIS has also been used as part of the local determination process.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has procedures that are reasonably designed to ensure appropriate use of IDEA funds. OSEP cannot, however, without collecting data at the local level, determine whether the State's procedures are fully effective in identifying noncompliance in a timely manner.

Required Actions/Next Steps

No further action is required.